

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) EQUAL EMPLOYMENT OPPORTUNITY }
COMMISSION, }
Plaintiff, }
v. } Case No. 09-CV-602-GKF-FHM
(1) ABERCROMBIE & FITCH STORES, INC. }
An Ohio Corporation, d/b/a }
ABERCROMBIE KIDS, }
Defendant. } JURY TRIAL DEMANDED

}

COMPLAINT

This is an action under Title VII of the Civil Rights Act of 1964, and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of religion and to provide appropriate relief to Samantha Elauf. The Equal Employment Opportunity Commission alleges that the Defendant, Abercrombie & Fitch Stores, Inc. (“Abercrombie & Fitch”) d/b/a Abercrombie Kids, violated Title VII by failing to accommodate Ms. Elauf’s religious beliefs and by failing to hire her because of her religion, Muslim.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to §§ 706(f)(1) & (3) of Title VII of the Civil Rights Act of 1964, as amended, (“Title VII”), 42 U.S.C. § 2000e-5(f)(1) & (3) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Northern District of Oklahoma.

PARTIES

2. Plaintiff, Equal Employment Opportunity Commission (the “Commission”), is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by §706(f)(1) & (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

3. At all relevant times, Defendant has been a corporation continuously doing business in the State of Oklahoma and the City of Tulsa, and has continuously had at least fifteen employees.

4. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. § 2000e-(b), (g) and (h).

STATEMENT OF CLAIMS

5. More than thirty days prior to the institution of this lawsuit, Samantha Elauf filed a charge with the Commission alleging a violation of Title VII by the Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

6. Since at least June 2008, Defendant has engaged in unlawful employment practices in its Abercrombie Kids store located in the Woodland Hills Mall in Tulsa, Oklahoma, in violation of Sections 703(a)(1) of Title VII, 42 U.S.C. Sections 2000e-2(a)(1). Ms. Elauf is Muslim and wears a head scarf, or hijab, in accordance with her religious beliefs. She applied for employment with Defendant at the Tulsa location identified above for a sales position and was interviewed wearing her hijab. Defendant refused to hire Ms. Elauf because she wears a hijab, claiming that the wearing of headgear was prohibited by its Look Policy, and, further, failed to accommodate her religious beliefs by making an exception to the Look Policy. These actions constitute discrimination

against Ms. Elauf on the basis of religion.

7. The practices complained of above were intentional and designed to deprive Samantha Elauf of equal employment opportunities and otherwise adversely affect her status as an employee.

8. The unlawful employment practices complained of above were committed with malice or with reckless indifference to the federally protected rights of Samantha Elauf.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining the Defendant, Abercrombie & Fitch, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in employment practices which discriminate on the basis of religion.

B. Order the Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for Samantha Elauf and other employees and which eradicate the effects of its past and present unlawful employment practices.

C. Order the Defendant to make whole Samantha Elauf by providing appropriate back pay with prejudgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices, including but not limited to rightful-place hiring or front pay in lieu of hiring.

D. Order the Defendant to make whole Samantha Elauf by providing compensation for past and future pecuniary and non-pecuniary losses resulting from the unlawful employment practices described above, including, but not limited to emotional pain, suffering, anxiety, loss of enjoyment of life, humiliation, and inconvenience, in amounts to be determined at trial.

E. Order the Defendant to pay Samantha Elauf punitive damages for its malice or reckless indifference to her federally protected rights described above, in amounts to be determined at trial.

F. Grant such further relief as the Court deems necessary and proper.

G. Award the Commission its costs in this action.

JURY TRIAL DEMAND

The Commission requests a Jury Trial on all questions of fact raised by its complaint.

Respectfully submitted,

FOR PLAINTIFF U.S. E.E.O.C.:

JAMES L. LEE
Acting General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

BARBARA A. SEELY
Regional Attorney
St. Louis District Office

s/Michelle M. Robertson
MICHELLE M. ROBERTSON, OBA #14084
Senior Trial Attorney

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**
Area Office for the State of Oklahoma
215 Dean A. McGee Avenue, Suite 524
Oklahoma City, Oklahoma 73102
Tel No. 405-231-4363
Fax No. 405-231-5816
michelle.robertson@eeoc.gov